



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,251	02/15/2002	Karin Henriette Hackin Fernandez	VANM205.001AUS	3247

20995 7590 01/21/2005

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

WANG, THOMAS D

ART UNIT PAPER NUMBER

2122

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/078,251

Applicant(s)

FERNANDEZ ET AL.

Examiner

Thomas D. Wang

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the application filed February 15, 2002.
2. Claims 1-6 have been examined.

Priority

3. The priority date considered for this application is February 16, 2001.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: on page 10 line 6 – “Step 7: Obtaining the unique identifier...”; same page line 15 – “Step 8: Initialization of the entry...”; same page line 24 – “Step 9: Initialization of the parameter...”; page 11 line 3 – “Step 10 Execution”; and same page line 9 – “Step 11: After execution”. The drawings are also objected to on the same base because they include the following reference character(s) not mentioned in the description: Fig. 2 element 10. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The abstract of the disclosure is objected to because on line 10 –
“S:\DOCS\RMJ\RMJ-1262.DOC” – appears to be extraneous. Correction is required.
See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

- The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).
7. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Cifra et al. (US 2004/0221238, hereinafter Cifra).

8. With respect to claim 1, Cifra discloses a *method for providing a customized computer program to an end user, comprising:*

- *providing a plurality of program element (nodes) (E.g. see page 12 [0157], implemented using a plurality of graphical program nodes...the graphical programming system provides a library of nodes...); and*
- *creating an interface (link) arranged to access a group of program elements selected (added) from said plurality of program elements, wherein said interface and said group of program elements are customized (prototyped) for use by said end user (E.g. see FIG. 20; page 1 [0006], a prototyping environment...enable a user to select and execute various operation form the library; [0012], allows users to organize and execute sequences of reusable test modules; page 12 [0157], one or more nodes that are connected to each other appropriately; [0158], include information specifying how the input and outputs of these nodes should be linked to each other, in order to accomplish the desired data or control flow...the link information may specify pairs of node terminals that should be connected to each other).*

9. With respect to claim 2, Cifra further discloses *wherein the program elements are selected from the group consisting of options, methods and functions or a combination thereof which have the capacity to interact (link/correspond) with other programs (E.g. see FIG. 18; page 11 [0145], illustrates a user interface for receiving input specifying the input and output parameters; page 9 [0102], each functional operation may correspond*

Art Unit: 2122

to a particular function or group of functions; page 12 [0158], include information specifying how the inputs and outputs of these nodes should be linked to each other).

10. With respect to claim 3, Cifra further discloses *said interface is implemented upon an operating system* (computer system). (E.g. see page 6 [0076], the computer system 102 may take various forms, including a personal computer system; page 7 [0082], the main memory also stores operating system software as well as the software for operation of the computer system).

11. With respect to claim 4, Cifra further discloses *wherein said operating system is WindowsTM* (E.g. see page 11 [0141], FIG. 15 illustrates a user interface...the list includes a graphical programming development environment, LabVIEW, as well as various text-based programming environments, including LabWindows/CVI, Microsoft Visual Basic, and Microsoft Visual C++; page 6 [0077] for example, in one embodiment, the program that is generated is a National Instruments LabVIEW graphical program or a National Instruments LabWindows/CVI C program. The LabVIEW and LabWindows/CVI programming environments provide specialized support for developers of instrumentation and industrial automation applications).

12. With respect to claim 5, Cifra further discloses *wherein said interface comprises tools (or a layer) (a prototyping environment) for an administration of the functions comprised in said program elements and tools (or a layer) for a control of access (control flow) to said functions* (E.g. see page 2 [0018], prototyping environment may be utilized; page 12 [0157], nodes which are connected together to model...control flow; page 12 [0158], specifying how the inputs and outputs of these nodes should be linked

Art Unit: 2122

to each other, in order to accomplish the desired...control flow; page 13 [0165], to determine which previous node output should connect to the current node input).

13. With respect to claim 6, Cifra further discloses *wherein said interface further comprises a tool (or a layer) (a prototyping environment) for the control of data flow between functions, comprised in said program elements* (E.g. see page 2 [0018], prototyping environment may be utilized; page 8 [0100], create the graphical program by selecting the icons and connecting them together in a desired way; page 12 [0157], comprise nodes which are connected together to model the program data flow...where various node represent different functional blocks; section [0158], specifying how the inputs and outputs of these nodes should be linked to each other, in order to accomplish the desired data flow).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas D. Wang whose telephone number is (571) 272-7954. The examiner can normally be reached on 8:00-4:30 M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2122

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit 2122

December 29, 2004


TUAN DAM
SUPERVISORY PATENT EXAMINER

TDW